



Caltrans Statewide Small Business Council
Minutes of Meeting – May 18, 2006
8:00 AM – 12 Noon
Caltrans, Office of Civil Rights
1823 14th Street, Room 207
Sacramento, CA 95814
Telephone: (916) 324-0449

Statewide Council Members Present:

Paul Guerrero, California Small Business Entrepreneurs, Inc.
K.C. Chaudhary, Consulting Engineers and Land Surveyors of California (CELSOC)
Eddy Lau, Asian American A&Es, San Francisco
William Yang, Asian-American A&Es – So Cal
Ezekiel Patten, Black Business Association
Jeffrey Lee Jackson, American Indian Apprenticeship
Johnathan Hou, Asian Business Association
Alfred Quevedo, Society of American Military Engineers (SAME)
Sandy Black, American SubContractors Association of California, Inc.(ASA)
Rodrigo Garcia, Hispanic Society of Engineering & Management Services (HSEMS)
Roy Perez, California Manufacturers
Raul Fernandez, Filipino American Society of Architects & Engineers, Southern-Cal (FASAE)
Samuel Wallace, Alternate to Councilmember Fred Jordan
Dennis Trinidad, Governor's Office Small Business Advocate

Caltrans Staff Present:

Will Kempton, Director
Olivia Fonseca, Chair, Civil Rights
Randy Iwasaki, Chief Deputy Director
Janice Salais, Civil Rights
Deborah Robertson, District 7
Cris Galia, DPAC
Kevin Pokrajac, Local Assistance
Peter Vacura, Lab Testing and Technology Services
Jerald Peterson, Transportation Surveyor
Rhiannon Wright, Civil Rights
Robert Padilla, Civil Rights

Robert Buckley, Engineering Services
Kenneth Ginyard, Civil Rights
Bacilio Garcia, Civil Rights
Norma Dorsey, District 7
Esther Vicente, District 4

Guests Present:

Pat Padilla, Padilla & Associates
Don Zweifel, Compliance News
Sonny Smith, OP2 Consulting Services

Welcome/Introductions/Opening Remarks:

The general SBC meeting was preceded by a DBE-race-neutral program update by Director Kempton and Chief Deputy Iwasaki. The following are notes of that meeting held at 8:00 AM, prior to the general session of the SBC meeting, scheduled to begin at 9:00 AM.

Chair Fonseca began the meeting by welcoming Director Kempton and Chief Deputy Iwasaki and thanking them for their attendance. The purpose of Director Kempton's visit is to provide the SBC with a DBE-RN program update. District Directors (or alternates) were teleconferenced in to listen.

Director Kempton reported that the Department had no choice but to announce on May 1 that the DBE-RN program is now in place and the Disparity Study would be preceded by an Availability Study that will take four months to complete. The Federal Highway Administration (FHWA) concurred the evidence collected during the last 4-5 months was not sufficient to sustain a DBE race conscious program. He stated he is a strong supporter of the race conscious Program and is committed to the success of a DBE race neutral program. The Department is in the process of hiring a consultant to do a Disparity Study that will take 12 months to complete. Director Kempton plans to sustain his level of involvement and attend as many SBC meetings as possible throughout the year to provide periodic updates of the Race Neutral Program until the Disparity Study is complete. He was pleased to announce the Governor is supportive of the Department partnering with the non-DBE prime bidders to bring Small Businesses together. The Governor's Office is convening a meeting of the business leaders from the Architect and Engineering industry, construction, SB Council and Ethnic Chambers of Commerce to reconfirm commitments to the program. The Department will obtain program support from the Architect and Engineering (A&E) industry, such as Parsons Brinkerhaus and the construction industry such as CC Meyers and the Associated General Contractors Association.

Director Kempton announced that Jim Bourgart has been appointed Deputy Secretary Transportation of the Business, Transportation and Housing Agency (BT&H). Jim lends his extensive background as an engineer and understands the challenges of the DBE program. He will garner the A&E industry to support the Department efforts to sustain DBEs and small business participation.

Chief Deputy Iwasaki reported he is serving as the Acting Deputy Director of Maintenance and is requesting Deputy District Director of Maintenance to "spread the work around" and include small businesses and DBEs to complete rain and storm damage repairs suffered during recent storms. The Department hires DBEs to do this work and he encouraged any DBEs present to participate by registering on the Contractors Emergency Registry online, see the list of work to be done, and provide a company profile. About forty California counties are in need of re-pavement work as the result of the winter storms.

Chair Fonseca announced that the Department has initiated plans for creating a Bond Guarantee Program to assist DBEs and small businesses bidding federal-aid transportation contracts. The Department will need FHWA approval to implement the Bond Guarantee Program. In addition, Chair Fonseca announced the Department has prepared the scope of work for DBE Supportive Services in Southern California and the scope may be expanded to a statewide effort once funding is confirmed.

Councilmember Lau stated that the storm damage repair contracts and all federally funded emergency contracts should have DBE participation goals. He asked why there were no goals for the Pinole Valley or Russian River Bridge projects. Chief Deputy Iwasaki indicated in an emergency situations, the Department is exempt from setting DBE or Disabled Veteran Business Enterprise goals on these contracts. However, his directive to when he was the District 4 Director was to call the prime contractors directly and ask them

to utilize DBEs and small businesses. Councilmember Lau explained the message today to use small businesses and DBEs, is not the same message heard by the District Directors. Director Kempton informed Councilmember Lau his point is well made and reminded everyone that District Directors were listening in by teleconference and everyone is hearing the message clearly.

Councilmember Yang asked if the goal setting methodology will be changed. Chair Fonseca answered that the Availability Study to be completed in four months, from contract execution, will address if the Department needs to change its data collection method. Councilmember Guerrero states that adequate Supportive Services are not available to small businesses in Northern California and there are no services in Southern California. The supportive services office in the Bay area has insufficient parking and locations are not conducive or accessible for small businesses to get assistance. Further, the Prompt Payment Act needs to be enforced to ensure subcontractors get paid and he doesn't feel the Department is doing all it can to see this is carried out. Finally, Councilmember Guerrero stated the goal-setting methodology does not adequately match DBEs to non-DBEs. Chair Fonseca indicated Councilmember Guerrero volunteered to review and comment on the Statewide DBE Supportive Services scope of services. Director Kempton indicated prompt payment to subcontractors is still required as a condition of the DBE regulations.

Councilmember Patten thanked Director Kempton for the personal phone call made on May 1 announcing the change in the DBE program. He asked what was flawed in the evidence collected at the public comment forums that now requires a Disparity Study be conducted. Director Kempton responded that the information was not flawed but rather insufficient to satisfy the 9th Circuit Court ruling. The Disparity Study is now a required course of action by FHWA for establishing a DBE race conscious program.

Councilmember Chaudhary stated that the A & E community is pleased to hear of Jim Bourgart's recent appointment to Deputy Secretary Transportation at BT & H.

Guest Pat Padilla asked a two-part question: First, why was there a change for Local Agencies in establishing Bidder's List as required in the regulations. Local agencies are being told they can only collect Bidder's List from the low bidder. Before, the agencies collected Bidder's List information from all bidders. She said although the data, from the low bidder would be helpful in determining the availability of subcontractors, the same information is needed by the other bidders. Second, if the Department changes its methodology for determining DBE availability, must the Department also secure FHWA approval on the changes? Chair Fonseca was not aware of there being a change on how Local Agencies collect the information for Bidder's Lists. Director Kempton said if there was a change, he agrees with Pat Padilla that the change should go back to allow Local Agencies to collection information from all bidders. Chair Fonseca indicated she would check with Local Agencies Program.

Councilmember Garcia added that the Department should follow the lead from the Los Angeles Unified School District who regularly achieves 40-45% small business participation. Councilmember Garcia asks why the Department can't do the same. Director Kempton stated Civil Rights will look at what Los Angeles Unified School District has.

Alternate Councilmember Sam Wallace said a study conducted in 1991 found 1% of black contractors were involved in statewide contracting opportunities and today, 15 years later, the same percentage exists. He questioned what new information the Disparity Study might yield. Director Kempton indicated the Availability and Disparity Studies will focus on transportation contracts and the six ethnic group's participation in transportation contracts. We don't know what the Disparity Study will yield, but the Department will implement a DBE program on the results. The Disparity Study will be completed in a very aggressive 12 month and extensive public outreach is critical to collecting information. He is certain the

information is out there. Councilmember Sullivan asks if there will be updates to the SBC during the Disparity Study and if the Study will consider results from other states. Director Kempton once again reiterated his commitment to apprise the SBC periodically with updates, to the best his schedule will allow, by attending future SBC meetings and indicated Disparity Studies from Colorado, Washington, Illinois and Minnesota will be considered.

Chair Fonseca thanked Director Kempton and Chief Deputy Iwasaki for their attendance and comments and said she looked forward to their continued participation and future updates.

General Session of the SBC Meeting – 9:00 A.M.

Chair Fonseca called to order the general session of the SBC meeting by welcoming all and introductions were made.

ITEM #1: Approval of April 21, 2006 Meeting Minutes.

Motion: Councilmember Perez, with no amendments.

Second: Councilmember Yang.

April 21, 2006 minutes approved by consensus.

ITEM #2: Governor's Office of Small Business Update

Having celebrated the Small Business Recognition Day (SBRD) the day before, Councilmember Trinidad reported the event was successful and well attended. The event, held at the Sacramento Convention Center, highlighted exhibitors that provided information on procurement opportunities with State, Federal and Regional/Utility entities throughout the day. A luncheon, hosted by the California Chancellor's Office of Community Colleges, discussed the topics of Economic Development and Workforce Preparation. In the afternoon, a private reception featuring Governor Schwarzenegger was followed by a panel discussion moderated by Councilmember Dennis Trinidad and attended by key agency representatives, Chris Brown (Department of Finance), Barry Sedlek (Business, Transportation & Housing), Sean Walsh (Office of Planning & Research), Rosario Marin (State & Consumer Affairs), and Hector Barreto (US Small Business Administration).

Councilmember Chaudhary stated he was pleased with the Governor's comments on the infrastructure Bond Measure, Workers Compensation Reform, and the State budget surplus. Councilmember Lau reminded Councilmember Trinidad that a Micro Business Plan has yet to be implemented. Councilmember Trinidad stated he would look into it. Councilmember Garcia stated he too was impressed with the Governor's comments and asked Councilmember Trinidad, as the Governor's Small Business Advocate, what are his specific duties. Councilmember Trinidad answered he responds to Legislative inquiries, reviews legislative impact on small business, conducts outreach to over 110 small business associations to apprise the Governor and staff of statewide small business activities, provides guidance to Executive Orders 37 and 43, and to serve as a Federal liaison for the Governor. As a member to Hispanic Society of Engineering & Management Services (HSEMS), Councilmember Garcia invited Councilmember Trinidad to attend one of its quarterly meetings.

Councilmember Lau asked what was the Governor's office is doing to implement a Microbusiness Program because one does not exist and it's in the law to have a program for microbusinesses. Councilmember Trinidad indicated he has not discussed implementing a Microbusiness Program with the Department of

General Services (DGS), but he will ask DGS what they are doing, since DGS is responsible for the Microbusiness Program.

Councilmember Guerrero suggested that Councilmember Trinidad look into an Emergency Executive Order for Small Business size standards, increasing the threshold from \$10 million to something between \$13 million and \$15 million. He stated the Governor has the authority to do so and the size increase would keep in pace with inflation.

ITEM #3: Legislation Sharing

Councilmember Perez agreed to circulate pending legislation affecting small business to all members by e-mail. In the meantime, he suggested members investigate miscellaneous legislation relating to a gas tax and a mandate for 20-year infrastructure bonds for affordable housing.

ITEM # 4: Peter Vacura, Chief, Office of Testing and Technology Services Presentation

Peter Vacura offered a PowerPoint presentation on new product testing and described the technology services provided by his office and staff. For details on the presentation, refer to the presentation handout, titled "The New Product Review Process."

ITEM #5: District Updates

District 11: On behalf of District 11, Chair Fonseca announced the representatives were not able to attend today because they are moving into the new District 11 building.

District 7: Deborah Robertson reported that the District Procurement Fair held April 25, 2006 was a success. Normal Dorsey added the format was changed to have the vendors at tables and the Caltrans buyers circulating. Caltrans buyers were also at tables creating purchase orders with vendors. In addition, District 7 employees visited the vendors and it appears employees found the vendor information useful as well. There was positive feedback received from the approximately 50 vendors that attended and many network building opportunities were established. There were some learned lessons on outreach. To get greater vendor participation in the future, the District will map businesses within a 2-mile radius of the District office, which could provide a service or product Caltrans uses and invite the mapped businesses to a future Vendor Fairs. Chair Fonseca asked if a Project Guide could be developed and Deborah agrees to provide the guide at a future SBC meeting.

Councilmember Quevedo said there is a need for an SBC in District 8 and would like to meet with managers in District 8. Chair Fonseca suggested Councilmember Quevedo contact Mike Petrovich, District 8 Director to schedule a meeting and she would assist if necessary. Deborah offered her assistance as well.

Councilmember Hou commented the District 7 A&E Mentor Protégé program continues to be a success and should be shared with other Districts to implement. Deborah committed to develop a guide for establishing District A&E Mentor programs for other Districts to replicate.

District 4: Esther Vicente, District 4 Small Business Liaison reported the following:

1. District Director Sartipi and SB Liaison Ruby Louie could not attend the meeting due to scheduling conflicts.

2. District 4 is refining its processes for contracting with small and disabled veteran businesses via the simplified process for its HM Minor B projects.
3. District 4 SBC members would like staff to investigate the possibility of using a "short-form" contract to encourage SBEs and DVBES to apply for Caltrans contracts. The belief is that the existing forms may be too cumbersome for small companies to routinely complete.
4. District 4 SBC members would like to expand service contracts like GCAP to include workshops on Caltrans' contracting process.
5. District 4 SBC is interested in possible expansion or application of the existing Civil Rights Contract Registry for targeted recruitment of SBE and DVBE contractors.
6. District 4 Director Sartipi maintains an interest in working to increase the utilization of SBEs, DVBES and DBEs on Caltrans projects.
7. District 4 outreach efforts recently included a well-attended outreach event for the Devil's Slide Tunnels project attracting more than 84 companies from across the U.S.
8. District 4 will hold a Contractor Briefing July 7 to inform SBEs and DVBES about upcoming contracting opportunities. (See Attached Flyer).

California Transportation Ventures (CTV): Pat Padilla, representing the Developer of the SR125 South Bay Expressway (SBX), reported the following:

1. The "Uniform Report of DBE Commitments/ Awards and Payments" due semi-annually to Caltrans was prepared and submitted on May 16, 2006 for both the SR125 Toll Road and Gap/Connector Design Build Projects. The report covers the period of October 1, 2005- March 31, 2006.
2. Quarterly DBE Participation Report (covering the period of January, February, and March 2006) for 1st quarter of calendar year is currently being prepared for the SR125 Design Projects. The report will be disseminated at the next SBC meeting on June 16, 2006 as requested.
3. ORC has had no new subcontract award activity reported between April 21, 2006 to date; the Landscaping Award previously reported is still pending.

Councilmember Guerrero asked if the overall DBE goal is reported to DOT and if so, will the goal be met on a Race Neutral basis or with a bond program. He suggested that for the Department to meet its DBE goal, it should unbundle its contracts, enforce the Prompt Payment Act, and implement a contract in Northern and Southern California for technical assistance to small businesses.

Chair Fonseca responded by saying the Department does, in fact, report its DBE goal attainments to FHWA. As mentioned earlier, the Department has initiated discussions about the potential development of a Bond Guarantee Program, utilizing approximately \$4 million from the Century Highway fund and leveraging it to \$16 million with BT & H Agency monies. Also, Councilmember Guerrero will review and comment on the DBE supportive services scope of service to ensure we capture the right services to DBEs. Councilmember Garcia asked for clarification because he thought small business participation/goal was not allowed by FHWA and asked if the term "Advisory" should be used instead of using "goal." Chair Fonseca indicated the Department is setting an individual DBE Availability Advisory Percentage on contracts and asking

bidders to reach the percentage. We are not using the word “goal.” Kevin Pokrajac, Local Assistance, said that contracts executed before May 1st will remain in place with the required DBE race-conscious requirements stated in the contract. DBE contract specification change orders will not be necessary. The key to what DBE program element is followed is by looking at the date the contract is executed. Councilmember Guerrero asked if the Department would provide Local Agencies with resources to implement the DBE-Race Neutral program. Kevin said, the Department received a letter from a Local Agency on that very question and the answer is agencies my request to use their federal-aid transportation funds to implement a DBE Race Neutral program.

ITEM #9: Statewide Committee Reports (New Items Only)

PROFESSIONAL SERVICES:

Councilmember Lau reported the Professional Services Committee met Wednesday, May 17, 2006 at 6:00 PM and were joined by Nigel Blampied, Design, John Peterson, Senior Transportation Planner and Jesus Mora, Chief Office of CADD/Engineering and GIS Support. Jesus Mora gave a presentation on why the Department selected the InRoad software program for Caltrans design services. Councilmember Lau asked Nigel to see if the Department could provide small businesses with InRoad software training. Nigel is looking into the possibility of hosting the InRoad software training to small businesses. Councilmember Lau mentioned that the PSC Action Item listing reflect several Action Item assigned to Steve Alston that related to DPAC and unless someone from DPAC is designated to staff the committee, the committee does not want to slip backwards on resolving Action Items.

Chair Fonseca emphasized the importance and value DPAC’s participation has with the PSC and indicated she would talk to the Acting DPAC Chief to continue cooperative efforts to meet with the Committee. She recommended the PSC continue meeting with DPAC staff, Tom Sanborn, Megan Rettke on Thursday afternoon’s until Steve Alston’s replacement is announced so that critical momentum is not lost.

Councilmember Lau announced that the issue of substitution would be moved for consideration to the Construction committee. See Action Item listing for the 2006 Professional Services Committee goals and updates.

CONSTRUCTION

In the absence of Councilmember Llewellyn, Councilmember Guererro reported the Construction Committee met Thursday, May 17, 2006 at 6:00 PM. Three action items considered by the committee:

1. The committee will add the issue of substitution (Action Item #06-14) to identify the substitution process and charge a subcommittee group led by Gene Mallette to develop a generally accepted, universal process. This should include a standard course of action for processing substitution requests by the Resident Engineers. Councilmember Guerrero stated there is no reason for a presentation of Caltrans’ substitution policy of subcontractors since a standard does not exist and the Council would only get a document that says this is the policy. He stated the Department’s substitution practices have been illegal since July 2004 because it is not following the new requirements in Public Contract Code 4107. Although this is not a new item, Chair Fonseca agreed to work with the Committee on this item.
2. Action Item #06-16, to link the Department front-page web site to a list of Minor B contracts (\$120,000 or less) in a way that draws the attention of small business owners. Also, that Caltrans develop a database when it seeks small businesses that are ready, willing and able to participate in its contracts.

3. The Committee requests a presentation be made to the entire SBC by the Department of Labor Standards (Department of Industrial Relations or DIR) on the issue of prevailing wages.

See Action Item listing for the 2006 Construction Committee goals and updates. Councilmember Guerrero shared with the SBC a recent article written by *World Fence News* featuring Golden Bay Fence Plus owned by Councilmember Floyd Chavez.

Related to SBC presentations, Councilmember Garcia requested the Department provide a presentation by the Audit Division on pre, post, and fixed rate and batch audit procedures. Chair Fonseca agreed to contact Gerald A. Long, Deputy Director, Audits and Investigations for a presentation to the Council in July.

COMMODITIES:

Due to Director Kempton's presentation, the Commodities Committee did not meet.

DBE ANNUAL GOAL COMMITTEE

Due to Director Kempton's presentation, the DBE Annual Goal Committee did not meet.

EXECUTIVE COMMITTEE

The Executive Committee did not meet.

ITEM #10: Public Comment/Good of the Order

Chair Fonseca asked the membership to decide as a group how it would prefer their individual contact information (including telephone numbers and e-mail addresses) to be listed in the public SBC roster to be placed on the Office of Civil Rights web site. The members agreed that the public roster web site page include their personal names, the name and address of the organization they represent, and a telephone number.

Chair Fonseca reminded all Council members that as we near the end of the current fiscal year, it is critical that Travel Expense Claims (TECs) be submitted as soon as possible for timely processing.

Leann Androvoich, GCAP presented a letter signed by Ed Salcedo, President GCAP, to Chair Fonseca and asked that the letter be entered for the record as comments to the April 21, 2006 Council meeting.

With no further business before the Council, the meeting adjourned at 12:30 p.m.

Next Meeting June 16, 2006.

Approved by:

OLIVIA FONSECA
Deputy Director
Civil Rights